U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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May 12, 2009

SUMMARY OF SUBJECT MATTER

TO: Subcommittee on Coast Guard and Maritime Transportation Members

FROM: Subcommittee on Coast Guard and Maritime Transportation Staff

RE: Hearing on "FY 2010 Budget Requests of the Coast Guard, Maritime Administration, and the Federal Maritime Commission"

PURPOSE OF THE HEARING

The Subcommittee on Coast Guard and Maritime Transportation will meet on Wednesday, May 13, 2009, at 2:00 p.m., in room 2167 of the Rayburn House Office Building to receive testimony on "FY 2010 Budget Requests of the Coast Guard, Maritime Administration, and the Federal Maritime Commission." Representatives for the Coast Guard, Maritime Administration, and the Federal Maritime Commission will present testimony regarding the Administration's Fiscal Year (FY) 2010 budget request.

BACKGROUND

Coast Guard Budget

FY 2010 Coast Guard Budget Request: The President requests $9.47 billion in FY 2010 for U.S. Coast Guard activities, which is an increase of approximately $364 million (4 percent) over the total amount enacted in FY 2009 for the service. The Coast Guard's request is designed to sustain the Coast Guard's ability to support America's maritime safety, security, and stewardship interests in FY 2010.

Operating Expenses (OE): The overall budget request for Coast Guard OE in FY 2010 is approximately $6.55 billion, an increase of more than $361.2 million (5.8 percent) over the FY 2009 enacted level. The OE account comprises more than two-thirds of the Coast Guard's budget. Funding from this account supports all the Coast Guard's missions including Search and Rescue, Marine Safety, Aids to Navigations, Living Marine Resources, Drug and Migrant Interdiction, Marine Environmental Protection, Other Law Enforcement, Ports Waterways and Coastal Security and Defense Readiness. This funding also covers the costs associated with the Coast Guard's workforce comprised of over 42,600 active duty, 8,100 reservists and 7,300 civilians. The requests covers pay increases for officers and enlisted members (2.9 percent) and civilian employees (2 percent) of the Coast Guard.

The Administration has designated $7.5 million of this request to provide for 74 new marine inspectors in the Coast Guard's marine safety programs. The FY 2009 budget requested 276 additional marine safety positions. In 2008, the Coast Guard inspected over 70,000 U.S. and 12,000 foreign vessels and conducted over 4,500 marine casualty investigations.

<u>Environmental Compliance and Restoration</u>: The President requests approximately $13.2 million for environmental compliance and restoration operations, a 1.5 percent increase from the FY 2009 appropriated level. Environmental compliance and restoration provides for the clean-up and restoration of previously and currently contaminated Coast Guard facilities, and provides for the rehabilitation of Coast Guard assets to ensure they comply with environmental laws established to prevent contamination of and damage to the environment.

<u>Reserve Training</u>: The President requests approximately $133.6 million for reserve pay, an increase of 2.4 percent over the FY 2009 budget; this funding is intended to cover training costs for Coast Guard Reserve personnel. The members of the Coast Guard Reserve are mobilized in the event of a national emergency or disaster. Reservists maintain readiness through mobilization exercises and by undertaking limited duration duty alongside regular Coast Guard members during both routine and emergency operations.

In addition, the Coast Guard Reserve fills critical national security and national defense roles in the Department of Homeland Security and in direct support of the Department of Defense in Iraq as part of Operation Iraqi Freedom, where Reservists manage waterside security around major ports and U.S. military assets.

<u>Acquisitions, Construction, and Improvements (AC&I)</u>: The President requests $1.38 billion to fund all planned Coast Guard capital acquisitions in FY 2010, an approximately $100.6 million decrease (7.4 percent) from the FY 2009 appropriated level. These funds support the acquisition, construction, and improvement of vessels, aircraft, information management resources, shore facilities, and aids to navigation.

Of the $1.39 billion request, $1.05 billion (an approximately $17 million increase from the appropriated funding for FY 2009) is for the Deepwater program, the Coast Guard's program to replace or rehabilitate cutters and aircraft utilized primarily 50 miles offshore. Specifically, the capital budget requests funding for the following projects:

- $591.4 million for surface assets recapitalization or enhancement initiatives of existing cutters and patrol boats and production of additional cutters and small boats;
- $305.5 million of air assets; and

- $154.6 million for program management, system integration, development of logistics support, and facility improvements at sites where new assets will be home-ported.

The President's budget requests $340 million for non-Deepwater capital expenses, including only $10 million for shore-based facilities and aid to navigation recapitalization projects. The Coast Guard received $98 million in the FY 2009 American Recovery and Reinvestment Act (ARRA) funding for maintenance projects; the service has announced it will direct $88 million of this funding to rehabilitate its shore infrastructure and $10 million to service its aging High Endurance Cutters. The ARRA funding combined with the funding requested by the President for the FY 2010 budget is significantly less than amounts historically provided for these capital needs. The Coast Guard has a $1 billion backlog of on shore maintenance facilities and repair needs throughout its aging shore facilities, including its personnel housing, air stations, sector offices, small boat stations, and at the Coast Guard Academy. Failure to adequately fund maintenance, repair, and replacement of shore facilities will only result in higher outlays in the future; it will also require Coast Guard personnel to continue to work in aging and, in some cases, sub-standard facilities.

Additional Coast Guard FY 2010 initiatives for which the President has requested funding include:

- $103 million for 30 Response Boats-Medium (to replace the 41 foot Utility Boats).
- $117 million for the "Rescue 21," initiative to install advanced command, control, and communications system to upgrade search and rescue capabilities and improve mission performance for California and New England Sectors and continued development of the Great Lakes, Guam, Hawaii, and Puerto Rico Sectors.
- $1.183 million to purchase "Biometrics at Sea System" (BASS) equipment and maintain existing BASS systems on 18 cutters and to fund engineering development and program management of BASS. The biometric program enables the Coast Guard to collect the fingerprints of interdicted migrants and send the information back to a shore-based database to determine if any of the interdicted individuals are wanted to face criminal charges. The Coast Guard is currently using this technology as part of a pilot program in the Mona Pass. Those individuals with outstanding warrants are taken into custody; the remaining individuals are repatriated to their country of origin. The use of this biometric system also enables the Coast Guard to identify individuals who have been interdicted on repeated occasions.
- $1.088 million to fund the SeaHawk Charleston Interagency Center located in Charleston, South Carolina. The SeaHawk is a prototype multi-agency coordination center and unified command staffed with personnel from the Coast Guard, Federal Bureau of Investigations, Customs and Border Protection, Immigration and Customs Enforcement and other local, state and Federal agencies. The Center will be used to coordinate vessel and intermodal transportation, screen and target vessels and share information to promote port security in the Port of Charleston.
- $22.4 million has been requested for Coast Guard funding of the Data Centers of the Department of Homeland Security, which provides information technology related to acquisition management and maintenance and support contracts.
- $20 million requested to modernize the Coast guard's financial management structure.
- $7.5 million for 74 additional marine inspectors and investigating officers.

Alteration of Bridges: Created by the Truman-Hobbs Act of 1940 (33 U.S.C. 511), the bridge alteration program authorizes the federal government to share with a bridge's owner the cost of altering or removing railroad and publicly owned highway bridges that obstruct maritime navigation. In FY 2008, $16 million was appropriated for this program. No funds are requested for this program in FY 2010. Although the Coast Guard received $142 million in the FY 2009 ARRA, there is a significant backlog for the Truman-Hobbs bridge alteration program. In 2009, the Coast Guard determined 32 bridges are potentially unreasonable obstructions to navigation. In 2008, the President's budget proposed to transfer responsibility for the Truman-Hobbs bridge alteration program to the Department of Transportation; that request was not renewed this year.

Research, Development, Test, and Evaluation: The President's budget requests approximately $19.7 million for Research, Development, Test and Evaluation, a $1.7 million (9.7 percent) increase from the amount appropriated for FY 2009. The funding supports continued and improved mission performance for the service's 11 Coast Guard missions through applied research and development conducted at the Coast Guard's Research and Development Center.

Retired Pay: The President's budget assumes that $1.36 billion will be needed for retired pay in Fiscal Year 2010. This represents a $124.5 million increase (10.1%) over the fiscal year 2009 appropriated level.

LORAN-C Termination: The Administration has concluded that LORAN-C is no longer required by the Armed Forces, the Nations' security interests, or the transportation sector due to the U.S. Global Positioning System (GPS). In FY 2010, the Coast Guard plans to end the federal broadcast of the LORAN-C signal. The Coast Guard plans to de-staff and close its 24 LORAN-C stations and associated support units; resulting in a savings of $36 million in FY 2010 and subsequent savings of $190 million over the next five years.

Port Security Grants: The President's budget requests $250 million for port security grants for FY 2010. In FY 2009, $400 million was available for port security grants.

COAST GUARD BUDGET REQUEST

(In millions of dollars)

Program	FY2009 Enacted	FY2009 Authorized (last Authorization FY2006)	FY2010 President's Budget	Diff. of FY2010 Pres. Budget and FY2009 Enacted ($)	(%)
Operating Expenses	6,195.0	None	6,556.2	361.2	5.8
Environmental Compliance	13.0	None	13.2	0.2	1.5
Reserve Training	130.5	None	133.6	3.1	2.4
Acquisition & Constr.	1,494.6	None	1,384.0	-110.6	-7.4
Alteration of Bridges	16.0	None	0	-16.0	-100
Research & Dev.	18	None	19.7	1.7	9.7
Retired Pay	1,236.7	None	1,361.2	124.5	10
Total	**9103.8**	**None**	**9467.9**	**364.1**	**4.0**

Maritime Administration Budget

FY 2010 Maritime Administration Budget Request: The President requests $345.5 million in FY 2010 for Maritime Administration (MARAD) activities, which is an increase of approximately $32.1 million (10 percent) above the appropriated level in FY 2009 (not including FY 2009 stimulus) for the Administration.

Operations and Training: The overall budget request for MARAD's Operations and Training is approximately $152.9 million, an increase of approximately $29.5 million (23.9 percent) under the FY 2009 appropriated level. Of the $152.9 million, $74.4 million is for the U.S. Merchant Marine Academy (USMMA); $15.6 million for the State Maritime Schools; and $45.5 million for MARAD operations. Funding from this account provides support staff at MARAD headquarters and gateway offices that administer and direct the Federal maritime programs for the operation of the USMMA and financial assistance for the six State maritime schools.

Assistance to Small Shipyards: MARAD did not request funds for the Assistance to Small Shipyards program in FY 2010. A total of $17.5 million was enacted for this program in FY 2008 and is to remain available until expended. This funding is made available as grants for capital improvements and related infrastructure improvements at qualified shipyards that facilitate the quality, efficiency, and cost-effectiveness of domestic ship construction for commercial and federal government use, as authorized under section 3506 of P.L. 109-163, the "National Defense Authorization Act for Fiscal Year 2006". MARAD received $100 million in ARRA funding for the Small Shipyard Program. More than 400 grant applications, totaling more than $1 billion, have been received for this funding, highlighting the demand among small shipyard for modernization support.

Ship Disposal: MARAD requested $15 million for essential expenses related to the disposal of obsolete vessels in the National Defense Reserve Fleet. This is the same amount as the FY 2009 appropriated level.

Maritime Security Program: MARAD requested $174 million to maintain and preserve a U.S.-crewed, U.S.-flagged merchant fleet to serve the national security needs of the United States. Direct payments are provided to U.S. flag ship operators engaged in U.S. foreign trade. Vessel operators that participate are required to keep the vessels in active commercial service and provide intermodal sealift support to the Department of Defense in times of war or national emergency.

Maritime Guaranteed Loan (Title XI) Program: The budget requested $3.63 million for the program administration of the Maritime Guaranteed Loan Program. No new funds were requested to subsidize new loan guarantees to support the construction of Jones Act vessels. There are currently $2.1 billion in guaranteed loans outstanding at the end of FY 2010. Guaranteed loans are provided for purchasers of ships from the U.S. shipbuilding industry and for the modernization of U.S. shipyards.

Mission

MARAD's mission is to strengthen the United States' maritime transportation system – including its infrastructure, industry, and labor – to meet the economic and security needs of the nation. MARAD's programs promote the development and maintenance of an adequate, well-balanced United States merchant marine so that it is sufficient to carry the nation's domestic waterborne commerce and a substantial portion of its waterborne foreign commerce and capable of serving as a naval and military auxiliary in time of war or national emergency. MARAD works to ensure the United States maintains adequate shipbuilding and repair services, efficient ports, effective intermodal water and land transportation systems, and reserve shipping capacity for use in time of national emergency.

MARAD's objectives include:

- Commercial Mobility – reducing congestion on the nation's inland waterway, marine, and landside infrastructure;
- National Security – assuring an intermodal sealift capacity to support America's national security interests; and
- Environment – formalizing environmental considerations in operations and in partnership with other agencies and private stakeholders to streamline processes that lead to environmentally friendly transportation improvements.

MARAD has re-aligned its headquarters offices and will eventually establish offices at 10 of the largest U.S. ports to enable to identify waterway bottlenecks and develop plans to improve freight movement. MARAD will work with stakeholders, promoting collaboration, and focusing particularly on planning and environmental issues.

Short Sea Shipping

Short Sea Shipping is an alternative form of commercial transportation that utilizes inland and coastal waterways to move commercial freight from major domestic ports to its destination.

In 2008, Congress passed the Energy Independence and Security Act of 2007 (P.L. 110-140). Title XI of that bill established a Short Sea Shipping program in MARAD and required the agency to identify short sea transportation projects and routes that will mitigate landside congestion. This includes coordinating resources between U.S.-flag vessel owners, shippers, ports, and state and local governments. This law also made U.S.-flag vessels engaged in short sea transportation between U.S. ports eligible to participate in the Capital Construction Fund Program administered by MARAD. This is a tax deferral program that allows vessel owners to place money in a tax deferred account and withdraw the funds to help finance short sea transportation projects.

MARAD is exploring how it can support the development of a robust short sea shipping system to aid in the reduction of growing freight congestion on U.S. rail and highway systems. MARAD is also looking at the use of public system incentives, vessel financing and construction, and customer requirements for the development of new waterborne transportation services in North America. A Short Sea Shipping Cooperative Program has been formed by MARAD that includes maritime business and community representatives to support projects that advance Short Sea Shipping. A Short Sea Shipping Memorandum of Cooperation has been reached with Canada and Mexico.

<u>Maritime Administration Budget Request</u>
(In millions of dollars)

Program	FY2009 Enacted	FY2009 Authorized	FY2010 President's Budget	Diff. of FY2010 Pres. Budget and FY2009 Enacted ($)	(%)
Operations and Training	123.36	None	152.9	29.5	23.9%
Assistance to Small Shipyards	17.5	None	0	-17.5	-100%
Ship Disposal Program	15	None	15	0	0%
Maritime Security Program	174	None	174	0	0%
Maritime Guaranteed Loan Program Administrative Expenses	3.5	None	3.6	.1	3%
Maritime Guaranteed Loan Program Loan Guarantees	0	None	0	0	0%
Total	**313.4**	**None**	**345.5**	**32.1**	**10%**

Federal Maritime Commission Budget

FY 2010 Federal Maritime Commission Request: The President requests $24.5 million in FY 2010 for Federal Maritime Commission (FMC) activities, which is an increase of approximately $1.7 million (7.5 percent) over the total amount appropriated in FY 2009.

Obligations by Program Activities: The President requests $8 million for formal proceedings; $1 million for Inspector General; $11 million for operations; and $4 million for administrative costs.

The FMC has operated on a 5-year budget authorization. That authorization expired at the end of fiscal year 2008.

Organization

The FMC is typically composed of five Commissioners appointed to five-year terms by the President, with the advice and consent of the Senate. Not more than three members of the FMC may belong to the same political party. The Chairman of the Commissioners is designated by the President.

The Chairman is the administrative officer and chief executive of the agency. The Chairman's position has been vacant since 2006 and one Commissioner resigned in 2008, leaving three sitting Commissioners. In June 2009, another Commissioner will leave the Commission when his five-year term expires; his departure will leave only two Commissioners to be responsible for the management of the agency.

The Commission's organizational units consist of: Office of the Secretary; Office of the General Counsel; Office of Administrative Law Judges; Office of the Inspector General; Office of the Executive Director; Office of Equal Employment Opportunity; Bureau of Consumer Complaints and Licensing; Bureau of Enforcement and Bureau of Trade Analysis. The Executive Director assists the Chairman in providing executive and administrative direction to the bureaus in the Commission. The offices and bureaus are responsible for the Commission's regulatory programs or providing administrative support. The majority of the Commission's personnel are located in Washington, D.C., with area representatives in Los Angeles, New York, Miami, New Orleans, and Seattle.

In the Commission's 2008 Federal Human Capitol Survey, there was a 20 percent increase in the satisfaction with the practice and policies of the FMC's senior leaders, an 11 percent increase in job satisfaction, and a 17 percent increase in satisfaction with employee training.

History

The FMC was established August 12, 1961, as an independent regulatory agency by Reorganization Plan No. 7. Prior to that date, the Federal Maritime Board had responsibility for the regulation of ocean commerce and the promotion of the United States Merchant Marine. Under Reorganization Plan No 7, U.S. shipping laws were separated into two categories: regulatory and promotional. The responsibility of promoting an adequate and efficient U.S. Merchant Marine was assigned to MARAD, now located within the Department of Transportation. The newly formed FMC was charged with the administration of the regulatory provisions of the shipping laws.

When the Shipping Act passed in 1984, major deregulatory changes were made in the regulatory regime for shipping companies operating in the U.S. foreign commerce. In 1998, Congress passed the Ocean Shipping Reform Act that had additional deregulatory amendments and modifications to the Shipping Act of 1984. This was a significant pro-market shift in shipping regulations.

Functions

The principal statutes or statutory provisions administered by the Commission are contained in subtitle IV of title 46, United States Code. This includes filing of tariffs and service contracts under chapter 405; regulation of controlled carriers under chapter 407; regulation of ocean transportation intermediaries such as freight forwarders under chapter 409; and actions to address unfair foreign shipping practices under chapters 421 and 423.

The FMC's regulatory responsibilities include:

- Regulating certain activities of international shipping lines (called "ocean common carriers"), marine terminals operators, and ocean transportation intermediaries that operate in the U.S. foreign commerce or the trade between individuals or legal entities in U.S. with different countries. An Ocean Transportation Intermediary is either an ocean freight forwarder or a non-vessel operating common carrier. An ocean freight forwarder is an individual or company that dispatches shipments from the United States via common carriers and arranges or books space for those shipments on behalf of shippers. They also prepare and process the documentation and perform related activities pertaining to those shipments. A non-vessel operating common carrier is a common carrier that extends itself out to the public to provide ocean transportation. It does not operate the vessels by which ocean transportation is provided, and is a shipper in relation to the involved ocean common carrier.
- Overseeing the financial responsibility of cruise ship lines and other passenger ship operators, ensuring they have the resources to pay compensation for personal injuries or non-performance.
- Monitoring the laws and practices of foreign governments, which could have a discriminatory or otherwise adverse impact on the U.S. maritime trade and U.S. shipping industry and administers bilateral trade sanctions to persuade foreign governments to remove adverse conditions.
- Enforcing special regulatory requirements applicable to shipping lines controlled or owned by foreign governments (so-called "controlled carriers").
- Reviewing and regulating agreements between marine terminals and/or shipping lines (which enjoy statutory immunity from the antitrust laws) and service contracts between shipping lines and their customers.
- Licenses and regulates ocean transportation intermediaries in the U.S., and ensures all maintain evidence of financial responsibility. These intermediaries include freight forwarders, who make bookings and process paperwork for shipper customers

(roughly analogous to a travel agent for freight), and "non-vessel-operating common carriers," who act as resellers of space on shipping lines' vessels.

- ➢ Reviewing common carriers' privately published tariff systems for accessibility and accuracy.

The FMC is authorized by chapters 421 and 423 of title 46, United States Code to take action to ensure that the foreign commerce of the United States is not burdened by non-market barriers to ocean shipping. The FMC may take countervailing action to correct unfavorable shipping conditions in U.S. foreign commerce and may inflict penalties to address actions by carriers or foreign governments that adversely affect shipping in the U.S. foreign oceanborne trades or that impair access of U.S. flag vessels to ocean trade between foreign ports.

The FMC conducts informal and formal investigations as a part of its regulatory responsibility. If a person or company is unable to settle a dispute that involves a possible violation of the Shipping Act, that person or company may file a complaint to the FMC. The complaint will be referred to the Commission's Office of Administrative Law Judges (ALJ). If the ALJ is unable to decide the case merely by reading written evidence, a hearing may be conducted that is similar to trial in which witnesses will appear and give testimony under oath. The ALJ's initial decision may be appealed to the Commission by the filing of exceptions by the parties within 22 days, or may be reviewed by the Commission on its own motion. If there are no exceptions to the initial decision, it becomes administratively final 30 days after the date of issuance.

FEDERAL MARITIME COMMISSION BUDGET REQUEST

(In millions of dollars)

Program	FY2009 Enacted	FY2010 Authorized	FY2010 President's Budget	Diff. of FY2010 Pres. Budget and FY2009 Enacted ($)	(%)
Formal Proceedings	6	None	8	2	33%
Inspector General	1	None	1	0	0%
Operations	10	None	11	1	10%
Administrative	5	None	4	-1	-20%
Total	**22.8**	**None**	**24.5**	**1.7**	**7.5%**

PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation held hearings in the first and second sessions of the 110th Congress to examine the proposed fiscal year 2008 and 2009 budgets for the Coast Guard, MARAD, and FMC. Various hearings held throughout the 110th Congress have also examined specific aspects of the programs implemented by the Coast Guard (including its Acquisitions program), MARAD (including its work to promote short sea shipping and the continued development of a robust maritime workforce), and the FMC (including its management and regulation of international shipping).

WITNESSES

Panel I

Admiral Thad Allen
Commandant
United States Coast Guard

Master Chief Charles W. Bowen
Master Chief Petty Officer
United States Coast Guard

Panel II

Commissioner Joseph E. Brennan
Commissioner
Federal Maritime Commission

Commissioner Hal Creel
Commissioner
Federal Maritime Commission

Commissioner Rebecca Dye
Commissioner
Federal Maritime Commission

Panel III

Mr. David J. Rivait
Associate Administrator for Budget and Programs
Chief Financial Officer
Maritime Administration